

**BCC Meeting:
October 5, 2021
Research Notes**

**Item No. 8F3
File No. 211593**

Research: MF / Reviewer: PGE

RESOLUTION AUTHORIZING A DESIGNATED PURCHASE PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; AUTHORIZING ADDITIONAL EXPENDITURE AUTHORITY IN AN AMOUNT UP TO \$2,850,630.00 FOR MULTIPLE COUNTY DEPARTMENTS FOR THE FINAL OPTION TO RENEW TERM FOR A MODIFIED TOTAL CONTRACT AWARD OF \$34,679,368.00 FOR CONTRACT NO. 6938-2/22-2 FOR THE PURCHASE OF GARBAGE COLLECTION AND DISPOSAL SERVICES; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISION, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

Prime Sponsor: None

Requester: Internal Services Department

Committee Action Date: 9/16/21 – County Infrastructure, Operations and Innovations Committee

RESEARCH FINDINGS

OCA's review of the item yielded the findings enumerated below.

1. The Administration has not completed a cost analysis to determine whether it would be in the County's long-term best interest to deliver these services in-house. DSWM has conducted a preliminary analysis of the costs and benefits of delivering garbage and trash services in-house for County departments. That analysis is still being finalized.
2. Waste Connections US Inc. – the principal corporation of recommended vendor Waste Connections of Florida – is a co-defendant in a lawsuit, *Hackensack Riverkeeper, Inc. et al. v. Seneca Meadows, Inc. et al* (Case No. 7:21-CV-07659), filed September 14, 2021 in the U.S. District Court, Southern District of New York (White Plains). According to the complaint, the defendants polluted runoff from a scrap metal processing and recycling facility into U.S. waterways in violation of the Clean Water Act. The complaint also alleges that according to various water sampling results, the facility consistently reported high pollutant levels that caused or contributed to violations of applicable New York water quality standards, including irregular levels of iron and copper in stormwater. As per the latest docket activity on September 15, 2021, the case was assigned a judge.
3. Recommended vendor Waste Connections – with locations across the United States – has 12 [OSHA cases](#) on file, two resulting in fatalities, since 2016 across various states such as Colorado, Missouri, Maryland, California, et al. One fatality was reported January 1, 2018 and involved a mechanic who was checking a truck's starter when the truck's cab came down on top of him, crushing him. Another fatality was reported July 14, 2020 and involved a new employee who worked outside on the back of a truck for most of the day and complained of feeling overheated. Once his shift ended, the employee exhibited heat-related symptoms and complained of nausea and cramps, then vomited. The employee was then taken to the hospital where he was placed in the ICU and later died as a result of excessive heat exposure.
4. Recommended vendor Waste Management Inc. – with locations across the country – has 10 [OSHA cases](#) on file with three resulting in fatalities since 2019, spanning various states such as Colorado, Arizona, and Virginia. One of the recent fatalities occurred at Waste Management of Maryland on July 16, 2020 and involved an employee operating a forklift while loading recycle bins into the bed of a flatbed trailer. During the loading process, two stacks of bins fell off the flatbed and landed on the gravel and as the employee traveled to the gravel area to retrieve the bins one of the forklift tires went into the gravel causing the forklift to overturn and the employee to be crushed. The employee was taken to the hospital where he later died.

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FINANCIAL ANALYSIS

Table 1 below provides the item's fiscal impact as it relates to the County budget.

Table 1

Has the expenditure or revenue been budgeted for?				
User Department	If yes:	If no:	If Applicable	
	Provide the funding or revenue source	Explain why this expenditure or revenue was not budgeted for, including how the expenditure will be addressed, or what the revenue will be utilized for.	Provide the actual expenditures/revenues in FY19-20	Provide the projected expenditures/revenues in FY20-21
Aviation	EA101 Operating Funds	N/A	\$1,877,890.10	\$1,733,238.13
Community Action and Human Services	General Funds	N/A	\$90,000	\$100,000
Internal Services	General Fund	N/A	GF 050 010 \$131,236.94 GF 050 011 \$1,332.20 GF 050 014 \$13,082.34	GF 050 010 \$209,000 GF 050 011 \$1,500 GF 050 014 \$1,000
PROS	User Fees and General Fund Subsidy	N/A	Expenditures of \$849,312	Expenditures of \$900,000
Public Housing and Community Development	Pending Department Response	---	---	---
Seaport	Seaport Revenues	N/A	\$95,400	\$90,000
WASD	WASD Proprietary	N/A	\$294,616	\$317,360

ADDITIONAL INFORMATION

A review of the County's Bid Tracking System on September 29, 2021 shows that the current option-to-renew term for *Contract No. 6938-2/22-2* has a cumulative allocation of \$5,650,999.54 and expires on November 30, 2022. A total of \$1,476,026.24 has been released, leaving a balance of \$4,174,973.30.

This designated purchase increases expenditure authority under the contract by \$2,850,630, a 50% increase to the contract's value, resulting in a new, modified contract value of \$8,501,629.54 for the term. Resolution No. [R-391-17](#) requires the Administration to conduct competitive selections whenever feasible instead of expanding the term or

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services under existing contracts and to include in such expanded contracts the County's current legislative requirements. In this case, the scope of services has expanded by 50% without a competitive vendor selection process. ISD's response was that these additional needs may likely interrupt or delay current services by potentially having multiple vendors providing services at the same site, creating confusion and operational inefficiencies. ISD states that the additional allocation requested will be utilized to obtain essential services to meet the ever-shifting needs of multiple departments, which are already receiving services from the current vendors, at the current contract rates while maintaining continuity of services. The contract contains all current Board mandated terms.

The item states that the SBE Bid Preference and Local Preference were applied; however, it does not state the applicability of those preferences to this recommended designated purchase. ISD has explained that the pricing established at contract award took into consideration SBE Bid Preference and Local Preference.

As it relates to the aforementioned lawsuit pertaining to an employee who died from extreme heat exposure, just recently (September 2021) OSHA announced that the agency would work to enforce against heat-related hazards in the workplace. According to Waste Today Magazine, there were 43 reported worker deaths from heat-related illnesses in 2019 and another 2,410 suffered some type of serious injury or illness.¹ To mitigate such situations, OSHA plans to step up its enforcement, calling for employers to implement intervention strategies such as ensuring employees consume enough water, and have intermittent breaks for rest and shade.²

¹Adam Redling, OSHA to enforce against heat-related hazards in the workplace, Waste Today, September 22, 2021, [OSHA to enforce against heat-related hazards in the workplace - Waste Today \(wastetodaymagazine.com\)](https://wastetodaymagazine.com/osha-to-enforce-against-heat-related-hazards-in-the-workplace/)

²*Id.*